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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,082	09/30/2003	John A. Griego	BSC-176DV	5078

27774 7590 10/05/2006

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EXAMINER
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BOUCHELLE, LAURA A

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

10/675,082

Applicant(s)

GRIEGO ET AL.

Examiner

Laura A. Bouchelle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 16-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-20, 22-25 and 28-30 is/are rejected.
- 7) ☒ Claim(s) 21, 26, 27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/30/03</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 16, 18, 20, 29, 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cragg et al (US 6146373) in view of Davey et al (US 6120483). Cragg discloses a catheter system and method for injection comprising the steps of providing a delivery catheter having a first member and a second member, the second member slidably disposed in the first member (Col. 4, lines 35-50). The method further includes the steps of injecting a first material and a second material through the first and second members, respectively (Col. 10, lines 1-20).
3. Claim 16 differs from Cragg in calling for the second member to have a valve. Claim 18 calls for the valve to be a one-way flow-control valve. Davey teaches a medical infusion device comprising a catheter 12 having a one-way flow control valve 110 at the distal end that allows the user to stop and start the infusion of fluid to the patient (Col. 8, lines 40-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the catheter of Cragg to include a valve as taught by Davey so that the user can stop and start the infusion of fluid to the patient.

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4. Claims 17, 19, 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cragg in view of Davey as applied to claim 16 above, and further in view of Rhee et al (US 6166130). Claim 17 differs from Cragg in view of Davey in calling for the first material to be a crosslinking agent, and the second material to be a crosslinkable polymer. Claim 23 calls for a bioadhesive. Claim 24 calls for the bioadhesive agent to be collagen. Claim 25 calls for the crosslinking agent to be an ionic crosslinker. Rhee teaches a method of using crosslinked polymer compositions including the step of delivering a crosslinking agent, and delivering a crosslinkable polymer to initiate crosslinking to effect adhesion between a first surface and a second surface, to effect tissue augmentation, to prevent the formation of surgical adhesions, or to coat a surface of a synthetic implant (Col. 26, lines 40-50, Abstract). Rhee teaches that one of the materials is a bioadhesive agent such as collagen (Col. 1, lines 20, Col. 28, line 10). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the method of Cragg in view of Davey to include the steps of delivering a crosslinking agent, and delivering a crosslinkable polymer, at least one of which being collagen as taught by Rhee to effect adhesion between a first surface and a second surface, to effect tissue augmentation, to prevent the formation of surgical adhesions, or to coat a surface of a synthetic implant.

5. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cragg in view of Davey in view of Rhee as applied to claim 17 above, and further in view of Wilkie et al (US 2002/0022588). Claim 28 differs from the teachings above in calling for the crosslinkable polymer to comprise alginate. Wilkie teaches a method for sealing tissue leaks including the

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steps of delivering an alginate to adhere biological or synthetic tissues, seal fluid of gaseous leaks in biological tissues, or prepare implants (Paragraph 0036, Abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the method above to include the delivery of an alginate as taught by Wilkie to adhere biological or synthetic tissues, seal fluid of gaseous leaks in biological tissues, or prepare implants.

***Allowable Subject Matter***

6. Claims 21, 26, 27 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura A. Bouchelle whose telephone number is 571-272-2125. The examiner can normally be reached on Monday-Friday 8-4.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 517-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Laura A Bouchelle  
Examiner  
Art Unit 3763

LAB



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